

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS**

In re:
 CARL WAYNE ORRELL
 Debtors.

Chapter 7
 Case No.: 19-33630

KAPITUS SERVICING, INC, AS
 SERVICING AGENT FOR KAPITUS LLC,

Ad. Pro. No. 20-03016-bjh

Plaintiff,
 v.
 CARL WAYNE ORRELL,
 Defendant.

PLAINTIFF'S WITNESS AND EXHIBIT LIST

Judge:	Michelle V. Larson
Docket Call:	February 2, 2021 at 1:15 p.m.
Parties' Names:	Kapitus Servicing, Inc., as Servicing Agent for Kapitus LLC
Attorneys' Names:	Charles M. Rubio
Attorneys' Telephone:	212-763-3331
Nature of Proceeding:	Trial

Parkins Lee & Rubio LLP (“Parkins Lee & Rubio”), counsel to Kapitus Servicing, Inc., as servicing agent for Kapitus LLC (“Kapitus” or the “Plaintiff”), hereby submits this Witness and Exhibit List in connection with the trial in the above-referenced adversary proceeding.

WITNESSES

Parkins Lee & Rubio may call any of the following witnesses at the Hearing, whether in person or by proffer:

1. Carl Orrell
2. David Wolfson
3. Steven Podhorzer
4. Zach Norris (fact and/or expert)
5. Dinorah Medina (fact and/or expert)
6. Any witness called by another party.

Mr. Norris' Rule 26(a)(2)(C) Disclosure: Mr. Norris is an employee of Kapitus. Mr. Norris is not retained or specially employed to provide expert testimony in this case. Mr. Norris' duties as a Kapitus' employee does not regularly involve giving expert testimony. Based on the foregoing, Kapitus is not required to provide a written report pursuant to rule 26(a)(2)(B) of the Federal Rules of Civil Procedure. Pursuant to rule 26(a)(2)(C) of the Federal Rules of Civil Procedure, Kapitus makes the following disclosure: Mr. Norris may testify on the subject of underwriting and he is expected to testify that the due diligence process Kapitus used for the April 2019 financing with Blue Star Recycling was reasonable under the circumstances and that Kapitus reasonably relied on this diligence process in advancing funds to Blue Star Recycling. A summary of the facts that Mr. Norris may relay on include the history of the relationship between Kapitus and Blue Star Recycling and the use of the prefunding call and the Agreement to evaluate the eligibility for further funding.

Dinorah Medina's Rule 26(a)(2)(C) Disclosure: Ms. Medina is an employee of Kapitus. Ms. Medina is not retained or specially employed to provide expert testimony in this case. Ms. Medina' duties as a Kapitus' employee does not regularly involve giving expert testimony. Based

on the foregoing, Kapitus is not required to provide a written report pursuant to rule 26(a)(2)(B) of the Federal Rules of Civil Procedure. Pursuant to rule 26(a)(2)(C) of the Federal Rules of Civil Procedure, Kapitus makes the following disclosure: Mr. Medina may testify on the subject of underwriting and she is expected to testify that the due diligence process Kapitus used for the April 2019 financing with Blue Star Recycling was reasonable under the circumstances and that Kapitus reasonably relied on this diligence process in advancing funds to Blue Star Recycling. A summary of the facts that Ms. Medina may relay on include the history of the relationship between Kapitus and Blue Star Recycling and the use of the prefunding call and the Agreement to evaluate the eligibility for further funding.

EXHIBITS

Parkins Lee & Rubio may offer for admission into evidence any of the following exhibits at the trial:

Ex.	Description	Offered	Objection	Admitted/ Not Admitted	Disposition
A-1	Kapitus Servicing Inc.'s Complaint to Determine Non-Dischargeability of Debt [ECF No. 1]				
A-2	Ex. A to Complaint to Determine Non-Dischargeability of Debt – Merchant Pre-Qualification Form				
A-3	Ex. B to Complaint to Determine Non-Dischargeability of Debt –Future Receivables Factoring Agreement (ACH)				
A-4	to Complaint to Determine Non-Dischargeability of Debt – Adversary Proceeding Cover Sheet				

Ex.	Description	Offered	Objection	Admitted/ Not Admitted	Disposition
B.	Answer to Complaint to Determine Non-Dischargeability of Debt (ECF No. 5)				
C.	Merchant Pre-Qualification Form, March 2018				
D.	UCC Financing Statement (Big Wave Finance)				
E.	Kapitus UCC Financing Statement Summary				
F.	Franchise Tax Account Status, Blue Star Recycling, LLC (as of February 6, 2020)				
G-1	Orrell Funding Call (mp3)				
G-2	Transcribed Portion of April 4, 2019 Prefunding Call				
H.	Future Receivables Factoring Agreement (ACH), Executed				
I.	Merchant Statement of Activity				
J.	Carl Wayne Orrell: Claim Itemization				
K.	Platform Notes				
L-1	Transcript: Oral Deposition of Carl Wayne Orrell, August 17, 2020				
L-2	Transcript: Ex. A to Oral Deposition of Carl Wayne Orrell, August 17, 2020				
M.	Orrell Schedules				

Ex.	Description	Offered	Objection	Admitted/ Not Admitted	Disposition
N.	City of Dallas v. Blue Star Recycling				
O.	2019.01.04 - Return of Service - Blue Star Recycling				
P.	Docket as of 2020.01.13 - City of Dallas v. Blue Star Recycling, et al.				
Q.	2019.04.01 - Return of Service (Show Cause - Blue Star Recycling)				
R.	19.11.15 - City of Dallas's Second Amended Petition and Request for Temp and Perm Injunctions				
S.	2020.06.18 - Subpoena Requiring Appearance at Deposition (Orrell)				
T.	2020.07.14 - Proof of Service of Subpoena (Orrell)				
U.	UCC Financing Statement: Corporation Service Company				
V.	Orrell UCC - North Mill Credit Trust 06.06.18 903345680001				
W.	Orrell Drivers License				
X.	Orrell Voided Check				

Ex.	Description	Offered	Objection	Admitted/ Not Admitted	Disposition
Y.	<p>Dallas Morning News 12.13.18 - 'It's unacceptable' _ Why a Dallas woman lives next to mountains of ground-up shingles</p> <p>https://www.dallasnews.com/opinion/commentary/2018/12/13/it-s-unacceptable-why-a-dallas-woman-lives-next-to-mountains-of-ground-up-shingles/</p> <p>(online article)</p>				
Z.	<p>Dallas Morning News 4.2.19 - Every level of government failed southern Dallas by allowing Shingle Mountain to grow</p> <p>https://www.dallasnews.com/opinion/commentary/2019/04/02/every-level-of-government-failed-southern-dallas-by-allowing-shingle-mountain-to-grow/</p> <p>(online article)</p>				
AA-1	<p>ABC (WFAA) Dallas – 3.20.19 - City files injunction amid public pressure over company behind 'shingle mountain'</p> <p>https://www.wfaa.com/article/news/city-files-injunction-amid-public-pressure-over-company-behind-shingle-mountain/287-c803301f-bfd3-4c87-8da3-39144edc17c5</p> <p>(online article)</p>				
AA-2	<p>ABC (WFAA) Dallas – 3.20.19 – new broadcast:</p> <p>https://wfaa.com/embeds/video/287-7dc08037-3f5c-4162-b7e2-18dbf3d2f21a/iframe?jwsource=cl</p> <p>(online video)</p>				

Ex.	Description	Offered	Objection	Admitted/ Not Admitted	Disposition
BB-1	CBS DFW - Recycling Controversy Overspills Between South Dallas Homeowner And Company https://dfw.cbslocal.com/2019/02/06/recycling-controversy-overspills-between-south-dallas-homeowner-and-company/ (online article)				
BB-2	CBS DFW https://cbsloc.al/2GrqgQJ (online video)				
CC.	Orrell – Discovery Requests				
DD.	Orrell Responses to RFP				
EE.	Responses to Interrogatories and Requests for Admissions				
FF.	Google News: Search: blue star recycling shingles https://news.google.com/search?q=blue%20star%20recycling%20shingles&hl=en-US&gl=US&cid=US%3Aen (online articles)				
GG.	Kapitus Expert Disclosure				
HH.	Merchant Log				

Parkins Lee & Rubio reserves the right to supplement, amend or delete any witness and exhibit prior to the hearing. Parkins Lee & Rubio also reserves the right to use any exhibit presented by any other party and to ask the Court to take judicial notice of any document. Finally, Parkins Lee & Rubio reserves the right to introduce exhibits previously admitted.

Dated: January 19, 2021

PARKINS LEE & RUBIO LLP

/s/ Charles M. Rubio

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CERTIFICATE OF SERVICE

I hereby certify that on this January 19, 2021, I caused a true and copy of the foregoing to be served on all parties eligible to receive service through the Court's Electronic Case Filing system.

/s/ Charles M. Rubio

Charles M. Rubio